



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,066	11/05/2003	Matti Lipsanen	P2286US00	6309
36671 7590 07/09/2010 DITTHAVONG MORI & STEINER, P.C. 918 Prince Street Alexandria, VA 22314				
EXAMINER BRANSKE, HILARY				
ART UNIT 2437		PAPER NUMBER		
NOTIFICATION DATE 07/09/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

### Office Action Summary

**Application No.**

10/701,066

**Applicant(s)**

LIPSANEN ET AL.

**Examiner**

Hilary Branske

**Art Unit**

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2010.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 12-26, 38 and 39 is/are pending in the application.  
4a) Of the above claim(s) 27-37 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10, 12-26, 38 and 39 is/are rejected.  
7) ☒ Claim(s) 1, 38 and 39 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 05/06/2010  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to Applicant's amendment filed on 15 April 2010.
2. Claims 1-26, 38 and 39 are pending in this application.
3. Claims 1, 5, 8-10, 12, 13, 16, 18, 19, 38 and 39 have been amended.
4. Claim 11 has been cancelled.

***Election/Restrictions***

5. This application contains claims 27-37 drawn to an invention nonelected with traverse in the reply filed on 28 October 2009. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Information Disclosure Statement***

6. The information disclosure statement (IDS) submitted on 06 May 2010 was filed after the mailing date of the Non-Final Rejection on 15 January 2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Drawings***

7. The objection to the Drawings as failing to comply with 37 CFR 1.84(p)(5) is withdrawn in light of the amendments to the Specification.

***Specification***

8. The objection to the disclosure for minor informalities is withdrawn in light of the amendments to the Specification.

***Claim Objections***

9. The objections to claims 8 and 38 for informalities are withdrawn in light of the amendments to the Claims. However, in light of the Applicant's amendments, further objections the claims are set forth below.

**Claims 1, 38 and 39** are objected to because of the following informalities:

Claim 1 recites "detecting a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed via the wireless communications devices by wireless communications" in lines 4-6. It is unclear whether the "via the wireless communications devices" is related to the detecting or the consuming, especially in view of the specification (see, for example, page 10, ¶ 0047, for example).

Claim 38 recites "detect a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed via the

users' wireless communications devices by wireless communications" in lines 8-10. It is unclear whether the "via the wireless communications devices" is related to the detecting or the consuming, especially in view of the specification (see, for example, page 10, ¶ 0047).

Claim 39 recites "detecting a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed via the users' wireless communications devices by wireless communications" in lines 7-9. It is unclear whether the "via the wireless communications devices" is related to the detecting or the consuming, especially in view of the specification (see page 10, ¶ 0047, for example).

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. **Claims 1-26, 38 and 39** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 38 and 39 recite the limitations "detecting a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed via the wireless communication devices by wireless communications" and "selectively controlling access or consumption of receivable

content by each of the detected users according to the determined access rights", which do not correspond to the explanation given in the description of the embodiments in the specification. For example, the first embodiment includes a receiver that detects the presence of one or more users in a region via their wireless communication devices (WCDs) and controls access to the content based on the detected users (Fig. 1 and page 10, ¶ 0047). The content is displayed on the receiver to the one or more users (pages 8-9, ¶ 0041). The WCD may simply be a personal accessory containing an RFID transponder, such as a watch, jewelry, or badge (page 9, ¶ 0044). In the second embodiment, the communications device communicates directly with the content provider, without the use of a receiver (Fig. 2 and page 11, ¶ 0053). There is only a single user in this environment, and the WCD controls access of content based on that user's access rights (Fig. 11, and page 24, ¶ 0107-page 25, ¶ 0111). This is in contrast to the first embodiment that determines a single access rights level to apply to content based on the detected one or more users (Fig. 12, and page 28, ¶ 0124). Even in the case when the WCDs in the group can be provided with content separately, the profiles of the WCDs are exchanged so that access to the content is defined by the highest access rating among the WCDs (page 29, ¶ 0130). Therefore, the limitations contradict what is disclosed in the specification.

Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: Claim 39 has

been amended to include the limitation "cause an apparatus to at least perform the following steps" in line 5. It is unclear whether the apparatus is related to the "at least one receiver terminal" in line 8.

All dependent claims are rejected to as having the same deficiencies as the claims they depend from.

### ***Claim Rejections - 35 USC § 101***

12. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

13. **Claim 39** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 39 recites the limitation "computer readable storage medium" which can be interpreted to cover a signal per se. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

The USPTO recognizes that applicants may have claims directed to computer readable media that cover signals per se, which the USPTO must reject under 35 U.S.C. § 101 as covering both non-statutory subject matter and statutory subject matter. In an effort to assist the patent community in overcoming a rejection or potential rejection under 35 U.S.C. § 101 in this situation, the USPTO suggests the following approach. A claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to

cover only statutory embodiments to avoid a rejection under 35 U.S.C. § 101 by adding the limitation "non-transitory" to the claim. *Cf. Animals – Patentability*, 1077 Off. Gaz. Pat. Office 24 (April 21, 1987) (suggesting that applicants add the limitation "non-human" to a claim covering a multi-cellular organism to avoid a rejection under 35 U.S.C. § 101). Such an amendment would typically not raise the issue of new matter, even when the specification is silent because the broadest reasonable interpretation relies on the ordinary and customary meaning that includes signals per se

### ***Response to Arguments***

14. Applicant states that "detected user communication devices may each receive a different content filtered by the receiver terminal, according to the determined access rights for the receiver terminal", and cites ¶¶ 0048, 0051 and 0093 (see page 16 of the present response). The cited portions of the specification describe controlling access to the content based on the lowest or highest access rights level of a group of users (¶ 0048); a portable receiver (¶ 0051); and, filtering content based on the profile in the mobile terminal (¶ 0093). However, as stated above in the 35 U.S.C. 112 second paragraph rejections of claims 1, 38 and 39, the amendments do not correspond to the explanation given in the description of the embodiments in the specification. Specifically, the first embodiment (Fig. 1 and Fig. 12) detects one or more users in a region and determines a single access rights level to apply to content based on the access rights level of each of the detected one or more users (page 10, ¶ 0047-0048, page 28, ¶ 0124). Even in the case that each WCD is provided with content, the



profiles of the users are exchanged so that access to the content is defined by the highest access ratings among the WCDs (page 29, ¶ 0130). This is contrast to the second embodiment (Fig. 2 and Fig. 11) which restricts access to content according to the access rights level of the single current user (page 26, ¶ 0117). Therefore, the limitations contradict what is disclosed in the specification.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in ¶ 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 1, 2, 5-8, 10-15, 18-20, 23-26, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. (U.S. Patent Application Publication No. US 2003/0088872 A1), hereinafter "Maissel", in view of Thomas (U.S. Patent No. 7,134,130 B1), hereinafter "Thomas", in view of Franzdonk (U.S. Patent Application Publication No. US 2005/0021467 A1), hereinafter "Franzdonk".**

17. **Regarding claim 1**, Maissel discloses "controlling user access," i.e., providing conditional access and parental control over content (page 17, ¶ 0281-0282); "by a plurality of users each having associated therewith a wireless communications device," i.e., apparatus is operated by user via remote control for parental control or control by a person who has right to control what programs another person, or persons, may view

and/ or record/delete, and/or otherwise use (page 10, ¶ 0174 and 0179, page 11, ¶ 0184 and 0199, page 17, ¶ 0280-0282, and page 20, ¶ 0342); each member of the family may have a different remote control (page 19, ¶ 0323); "to content transmitted across a communications medium," i.e., apparatus can operate as a set top box and communicates to receive content (page 16, ¶ 0266-0268, and page 17, ¶ 0276-0279 and 0285); "comprising: detecting of users in at least one region in which content receivable by at least one receiver terminal may be consumed via the one or more users' wireless communications devices by wireless communications," i.e., each member of the family of the user may select a corresponding agent by using a different remote control (page 19, ¶ 0321-0324); "and determining access rights to content based on the detected one or more users," i.e., the agent may determine for each associated user portions of the program which may require parental control and the user may be required to provide identification to prove that they are entitled to access a program (pages 19-20, ¶ 0326 and page 22, ¶ 0375-0376); "the access rights defining a suitability or unsuitability of one or more users to consume content," i.e., parental control is control by a person who has the right to control what programs another person or persons may view and/or record / delete, and/or otherwise use (page 17, ¶ 0282); content requiring parental control may include programs having a rating unsuitable for children (page 10, ¶ 0168 and 0179).

Maissel does not specifically disclose detecting a presence each of the users in which content receivable by at least one receiver terminal may be consumed. Thomas, however, discloses "detecting a presence of each of the users in at least one region in

which content receivable by at least one receiver terminal may be consumed," i.e., signal provides indication of the identity of each individual of the monitored area having access to the display (col. 7, lines 40-64 and col. 9, lines 14-49); "determining access rights to content based on the detected users, the access rights defining a suitability or unsuitability of each of the users to consume content," i.e., controlling access to information based on content of the information and user identity, where persons may be allowed or disallowed from viewing information (col. 5, lines 43-67 and col. 6, lines 1-23); "selectively controlling access or consumption of receivable content by each of the detected users according to the determined access rights," i.e., prevent access to certain types of data to users in a predetermined set of disallowed persons (col. 6, lines 8-23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs with Thomas's technique of detecting users in a viewing area in order to automate the detection of viewers to improve the control of access to displayed information.

Neither Maissel nor Thomas explicitly disclose consuming content via wireless communications devices by each of the users. Franzdonk, however, discloses "controlling user access, by a plurality of users each having associated therewith a wireless communication device, to content transmitted across a communications medium," i.e., authorizing and verifying content consumers having a mobile device to receive content from a content distributor (page 3, ¶ 0047); "comprising: detecting a

presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed via the wireless communications devices by wireless communications," i.e., content distributors at edges of the network cache content received by content providers and respond to requests received from multiple content destinations (page 3, ¶ 0046-0047); digital rights agent within content distributors acts as gatekeepers for all users of the network, and detects access operation of a user (page 7, ¶ 0090); "determining access rights to content based on the detected users, the access rights defining a suitability or unsuitability of each of the users to consume content," i.e., query user rights of a content consumer for issuing a key or clear content (page 6, ¶ 0087); access policies include parental control (page 10, ¶ 0173); "and selectively controlling access or consumption of receivable content by each of the detected users according to the determined access rights," i.e., perform access control with respect to user rights (page 6, ¶ 0087).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maisse's television system that maintains a viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area with Franzdonk's technique of controlling access to content by users of a digital rights network in order to improve management of access to content in a distributed content security system (Franzdonk - page 1, ¶ 0005).

18. **Regarding claim 2, in view of claim 1**, Maissel discloses "wherein content is broadcasted or multicasted for receipt by the receiver terminal," i.e., apparatus receives programs by broadcast (page 16, ¶ 0266-0267).
19. **Regarding claim 5, in view of claim 1**, Maissel discloses "wherein the determined access rights are determined according to at least an access rights level of one detected user, the access rights level enables determination of a suitability or unsuitability of particular content or content-types for consumption by the user," i.e., parental control allows a person to control what programs another person, or persons, may view and/or record/delete, and/or otherwise use (page 17, ¶ 0281-0282 and page 20, ¶ 0342-0343).
20. **Regarding claim 6, in view of claim 5**, Maissel discloses "wherein the access rights level indicates one of a maturity of a user, suitable content type, and unsuitable content-type," i.e., parental control indicates control of a person who is less mature and a program may contain material unsuited for younger viewers (page 17, ¶ 0282 and page 10, ¶ 0168).
21. **Regarding claim 7, in view of claim 5**, Thomas discloses "wherein the determined access rights comprises a highest or lowest access rights level of the detected users," i.e., the system automatically controls the program content to match a content suitable for the entire audience present (col. 10, lines 6-26), and if a person not allowed to view content enters the room, the video and/or audio is automatically blocked (col. 8, lines 52-67 and col. 9, lines 1-13).

22. **Regarding claim 8, in view of claim 5**, Thomas discloses "wherein the determined access rights are based according to a combination of access rights level of the detected users," i.e., based on the content type and set of persons in the audience, the content is blocked, skipped, or bleeped, and only objectionable portions can be skipped if certain non-allowed persons are present (col. 8, lines 4-19).

23. **Regarding claim 10, in view of claim 5**, Thomas discloses "further comprising retrieving an access rights level for each of the detected users from a storage facility," i.e., decision and command processor processes recognition signal according to viewing criteria signal from stored viewing criteria, and decision and command processor generates a control signal (col. 6, lines 52-67 and col. 7, lines 1-5).

24. **Regarding claim 12, in view of claim 1**, Thomas discloses "wherein the selectively controlling access comprises filtering received content for output by the receiver terminal to restrict or allow access or consumption of received content according to the determined access rights," i.e., a synchronized moment-to-moment content type indication allows the decision and command processor to block, skip or "bleep" based on content type and set of persons in the audience (col. 8, lines 4-19).

25. **Regarding claim 13, in view of claim 1**, Maissel discloses "wherein the selectively controlling access comprises filtering a content guide indicating content or content-types receivable by the receiver terminal," i.e., the intelligent agent customizes program schedule in accordance with one or more viewer profiles to eliminate certain programs from the guide or modifying an icon to be non-objectionable for viewing by children (page 11, ¶ 0184-0199).

26. **Regarding claim 14, in view of claim 13**, Maissel discloses "further comprising receiving the content guide from a remote location," i.e., receiving program schedule information (page 10, ¶ 0170).

27. **Regarding claim 15, in view of claim 14**, Maissel discloses "wherein the content guide comprises a broadcast program guide," i.e., program schedule information (page 10, ¶ 0170).

28. **Regarding claim 18, in view of claim 1**, Maissel discloses "wherein the selectively controlling access comprises controlling searching or selection of content or content-type by a user based on the determined access rights," i.e., the intelligent agent customizes program schedule in accordance with one or more viewer profiles to eliminate certain programs from the guide that are not suitable for children (page 11, ¶ 0184-0199).

29. **Regarding claim 19, in view of claim 1**, Maissel discloses "wherein the selectively controlling access comprises controlling receipt of content from the receivable content by the receiver terminal based on the determined access rights," i.e., a received program includes a broadcaster set of parameters that define information for the program including parental control information associated with at least a portion of the program requiring parental control (pages 18-19, ¶ 0303-0308) and parental control is control by a person who has the right to control what programs another person may view and/or record/delete and/or otherwise use (page 17, ¶ 0281-0282).

30. **Regarding claim 20, in view of claim 19**, Thomas discloses "wherein the controlling receipt of content comprises abstaining from receiving data burst of content

determined unsuitable for access or consumption based on the determined access rights," i.e., a synchronized moment-to-moment content type indication allows the decision and command processor to block, skip or "bleep" based on content type and set of persons in the audience, where blocking can totally block the signal (col. 8, lines 4-28).

31. **Regarding claim 23, in view of claim 1**, Thomas discloses "further comprising dynamically updating the determined access rights," i.e., monitors users in the room and automatically controls the program content to match content suitable for the entire audience present (col. 10, lines 6-42).

32. **Regarding claim 24, in view of claim 23**, Thomas discloses "wherein the dynamically updating comprises determining a new access rights upon a triggering event comprising one of detection of a new user, detection of a user leaving the region, detection of a powering down of the wireless communications device of a detected user, and detection of a change in an access rights profile on the wireless communications device of a detected user," i.e., detecting a user entering the room (col. 10, lines 6-42).

33. **Regarding claim 25, in view of claim 23**, Thomas discloses "further comprising dynamically updating access or consumption control of receivable content according to the updated determined access rights," i.e., system automatically controls the program content to match a content suitable for the entire audience present (col. 10, lines 6-42).

34. **Regarding claim 26, in view of claim 1**, Maissel discloses "wherein the determined access rights is determined for a period of time," i.e., received program can have assigned expiration time (page 7, ¶ 0114).



35. **Regarding claim 38**, Maissel discloses "content receiver terminal for controlling user access by a plurality of users each having associated therewith a wireless communications device," i.e., apparatus that receives broadcast programs (page 16, ¶ 0266-0268) is operated by user via remote control for parental control or control by a person who has right to control what programs another person, or persons, may view and/or record/delete, and/or otherwise use (page 10, ¶ 0174 and 0179, page 11, ¶ 0184 and 0199, page 17, ¶ 0280-0282, and page 20, ¶ 0342); each member of the family may have a different remote control (page 19, ¶ 0323); "to content delivered across a communications medium," i.e., apparatus can operate as a set top box and communicates to receive content (page 16, ¶ 0266-0268, and page 17, ¶ 0276-0279 and 0285); "comprising: at least one processor," i.e., microprocessors (page 9, ¶ 0152); "and at least one memory including computer program code," i.e., memory (page 9, ¶ 0152); "the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following, detect a presence of users in at least one region in which content receivable by at least one receiver terminal may be consumed via the users' wireless communications devices by wireless communications," i.e., each member of the family of the user may select a corresponding agent by using a different remote control via the I/O interface (Fig. 10B, item 115, page 17, ¶ 0280 and page 19, ¶ 0321-0324); "determine access rights to content based on the detected users," i.e., the agent module (Fig. 10B, item 145) may determine for each associated user portions of the program which may require parental control and the user may be required to provide identification to prove that they are

entitled to access a program (pages 19-20, ¶¶ 0326 and page 22, ¶¶ 0375-0376); "the access rights defining a suitability of unsuitability of one each of the users to consume content," i.e., parental control is control by a person who has the right to control what programs another person or persons may view and/or record / delete, and/or otherwise use (page 17, ¶ 0282); content requiring parental control may include programs having a rating unsuitable for children (page 10, ¶¶ 0168 and 0179).

Maissel does not specifically disclose detecting a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed. Thomas, however, discloses "detect a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed," i.e., user recognition input device determines that an additional user is newly present in a given area having access to the display (col. 7, lines 40-48 and col. 9, lines 14-49); "determine access rights to content based on the detected users, the access rights defining a suitability or unsuitability of each of the users to consume content," i.e., controlling access to information based on content of the information and user identity (col. 5, lines 43-67 and col. 6, lines 1-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs with Thomas's technique of detecting users in a viewing area in order to automate the detection of viewers to improve the control of access to displayed information.

Neither Maissel nor Thomas explicitly disclose consuming content via wireless communications devices by each of the users. Franzdonk, however, discloses "content receiver terminal for controlling user access by a plurality of users each having associated therewith a wireless communications device," i.e., authorizing and verifying content consumers having a mobile device to receive content from a content distributor (page 3, ¶ 0047); "detect a presence of users in at least one region in which content receivable by at least one receiver terminal may be consumed via the users' wireless communications devices by wireless communications," i.e., content distributors at edges of the network cache content received by content providers and respond to requests received from multiple content destinations (page 3, ¶¶ 0046-0047); digital rights agent within content distributors acts as gatekeepers for all users of the network, and detects access operation of a user (page 7, ¶ 0090); "determine access rights to content based on the detected users, the access rights defining a suitability of unsuitability of one each of the users to consume content," i.e., query user rights of a content consumer for issuing a key or clear content (page 6, ¶ 0087); access policies include parental control (page 10, ¶ 0173); "and selectively control access or consumption of receivable content by each of the detected users according to the determined access rights," i.e., perform access control with respect to user rights (page 6, ¶ 0087).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area with Franzdonk's technique of

controlling access to content by users of a digital rights network in order to improve management of access to content in a distributed content security system (Franzdonk - page 1, ¶ 0005).

36. **Regarding claim 39**, Maissel discloses "computer-readable storage medium encoded with processing instructions for implementing a method of controlling user access, by a plurality of users each having associated therewith a wireless communications device," i.e., apparatus that receives broadcast programs (page 16, ¶ 0266-0268) with functionality implemented by software (page 12, ¶ 0216) is operated by user via remote control for parental control or control by a person who has right to control what programs another person, or persons, may view and/ or record/delete, and/or otherwise use (page 10, ¶ 0174 and 0179, page 11, ¶ 0184 and 0199, page 17, ¶ 0280-0282, and page 20, ¶ 0342); "to content receivable across a communications medium," i.e., apparatus can operate as a set top box and communicates to receive content (page 16, ¶ 0266-0268, and page 17, ¶ 0276-0279 and 0285); "which, when executed by one or more processors, cause an apparatus to at least perform the following steps: detecting of users in at least one region in which the receivable content may be consumed via the users' wireless communications devices by wireless communications," i.e., each member of the family of the user may select a corresponding agent by using a different remote control via the I/O interface (Fig. 10B, item 115, page 17, ¶ 0280 and page 19, ¶ 0321-0324); "determining access rights to receivable content based on the detected users, the access rights defining a suitability or unsuitability of one or more users to consume content," i.e., parental control is control

by a person who has the right to control what programs another person or persons may view and/or record / delete, and/or otherwise use (page 17, ¶¶ 0282); content requiring parental control may include programs having a rating unsuitable for children (page 10, ¶¶ 0168 and 0179).

Maissel does not specifically disclose detecting a presence each of the users in which content receivable by at least one receiver terminal may be consumed. Thomas, however, discloses "detecting a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed," i.e., signal provides indication of the identity of each individual of the monitored area having access to the display (col. 7, lines 40-64 and col. 9, lines 14-49); "determining access rights to content based on the detected users, the access rights defining a suitability or unsuitability of each of the users to consume content," i.e., controlling access to information based on content of the information and user identity, where persons may be allowed or disallowed from viewing information (col. 5, lines 43-67 and col. 6, lines 1-23); "selectively controlling access or consumption of receivable content by each of the detected users according to the determined access rights," i.e., prevent access to certain types of data to users in a predetermined set of disallowed persons (col. 6, lines 8-23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs with

Thomas's technique of detecting users in a viewing area in order to automate the detection of viewers to improve the control of access to displayed information.

Neither Maissel nor Thomas explicitly disclose consuming content via wireless communications devices by each of the users. Franzdonk, however, discloses "controlling user access, by a plurality of users each having associated therewith a wireless communication device, to content transmitted across a communications medium," i.e., authorizing and verifying content consumers having a mobile device to receive content from a content distributor (page 3, ¶ 0047); "comprising: detecting a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed via the wireless communications devices by wireless communications," i.e., content distributors at edges of the network cache content received by content providers and respond to requests received from multiple content destinations (page 3, ¶ 0046-0047); digital rights agent within content distributors acts as gatekeepers for all users of the network, and detects access operation of a user (page 7, ¶ 0090); "determining access rights to content based on the detected users, the access rights defining a suitability or unsuitability of each of the users to consume content," i.e., query user rights of a content consumer for issuing a key or clear content (page 6, ¶ 0087); access policies include parental control (page 10, ¶ 0173); "and selectively controlling access or consumption of receivable content by each of the detected users according to the determined access rights," i.e., perform access control with respect to user rights (page 6, ¶ 0087).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area with Franzdonk's technique of controlling access to content by users of a digital rights network in order to improve management of access to content in a distributed content security system (Franzdonk - page 1, ¶ 0005).

**37. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel, in view of Thomas, in view of Franzdonk, and further in view of Hawley et al. (U.S. Patent Application Publication No. US 2001/0021950 A1), hereinafter "Hawley".**

**38. Regarding claim 3, in view of claim 1,** neither Maissel nor Thomas disclose that region is defined by a communications range of the receiver terminal. Hawley, however, discloses "wherein the region is defined by a communications range of the receiver terminal," i.e., reader automatically responds to tokens as they enter its read range to determine access criteria (page 4, ¶ 0032-0033).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area and Franzdonk's technique of

controlling access to content by users with Hawley's technique of limiting interactions with a network based on a tangible token that can be read wirelessly by a tag reader in order to increase reliability of the detection of viewers to improve the control of access to displayed information.

**39. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel, in view of Thomas, in view of Franzdonk, and further in view of Eaton et al. (U.S. Patent Application Publication No. US 2004/0203377 A1), hereinafter "Eaton".**

**40. Regarding claim 4, in view of claim 1,** neither Maissel nor Thomas disclose detecting a location of a user's communication device. Eaton, however, discloses "wherein the detecting a presence further comprises detecting a location of a user's communications device and determining whether the user's communications device is within the region," i.e., deriving an object location where object has a communication device (page 2, ¶ 0021-0024) and determining if the communication device within the object comes within the communication range of the group controller (page 3, ¶ 0027).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area and Franzdonk's technique of controlling access to content by users with Eaton's technique of wirelessly tracking the



location of an object in order to improve reliability of the detection of the location of viewers to improve the control of access to displayed information.

**41. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel, in view of Thomas, in view of Franzdonk, and further in view of Nickum (U.S. Patent No. US 6,359,661 B1), hereinafter "Nickum".**

**42. Regarding claim 9, in view of claim 5,** Maissel discloses "further comprising receiving an access of a user from the user's communications device," i.e., identifying a viewer based on the remote control (page 19, ¶ 0323-0324).

Neither Maissel nor Thomas disclose receiving an access rights level of a user from the device. Nickum, however, discloses "receiving an access rights level of each user from the user's communication device," i.e., user IDs associated with access rights level as well as profile information is stored in EEPROM of remote control device (col. 6, lines 38-62).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area and Franzdonk's technique of controlling access to content by users with Nickum's technique of controlling user access according to programming controls in a remote control device in order to restrict

access to displayed information for unauthorized viewers.

**43. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel, in view of Thomas, in view of Franzdonk, and further in view of Kwoh et al. (U.S. Patent No. US 6,115,057), hereinafter "Kwoh".**

44. **Regarding claim 16, in view of claim 15,** Maissel discloses "wherein the content guide comprises one or more items indicating receivable content or content-type, the items being configured in a hierarchical parent-child structure," i.e., selectable icons represent program subject matter and are ordered in a hierarchical relationship (page 15, ¶ 0254-0259).

Neither Maissel nor Thomas disclose an access rating of a child item cannot exceed an access rating of a parent item. Kwoh, however, discloses "wherein the content guide comprises one or more items indicating receivable content or content-type, the items being configured in a hierarchical parent-child structure in which an access rating of a child item can not exceed an access rating of a parent item," i.e., the rating data device ranks the order of the rating levels from highest rating G to lowest rating X in a rating hierarchy, where for example a if a desired rating level is PG-13 and a received video segment has a rating level of R then the video segment has a lower than desired rating level (Fig. 26, item 750, col. 17, lines 46-67 and col. 18, lines 1-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a

viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area and Franzdonk's technique of controlling access to content by users with Kwoh's technique of providing parental control in a television receiver in order to broaden control in restricting access to displayed information.

45. **Regarding claim 17, in view of claim 16**, Kwoh discloses "wherein the filtering comprises preventing processing of an unsuitable item and any associated child items of the content guide based on the determined access rights," i.e., extracted rating data is compared to the desired rating level, and if the extracted rating data has a lower rating level than the desired rating data, then the video and audio are blocked from the television monitor (col. 19, lines 9-36).

46. **Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel, in view of Thomas, in view of Franzdonk, and further in view of Herweck et al. (U.S. Patent No. US 5,731,763), hereinafter "Herweck".**

47. **Regarding claim 21, in view of claim 20**, neither Maissel nor Thomas disclose powering down content receiving components of the receiver terminal. Herweck, however, discloses "wherein the abstaining from receiving data burst comprises powering down at least content receiving components of the receiver terminal during data bursts of content determined unsuitable," i.e., the receiver provides a power cut-off

and receives authorization signals for controlling the power to the television receiver (col. 2, lines 30-49 and col. 5, lines 1-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area and Franzdonk's technique of controlling access to content by users with Herweck's access control technique that secures a television from use in order to increase granularity of access control in a protected system.

**48. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel, in view of Thomas, in view of Franzdonk, in view of Herweck, and further in view of Chapman et al. (U.S. Patent No. 6,216,228 B1), hereinafter "Chapman".**

**49. Regarding claim 22, in view of claim 21,** neither Maissel nor Thomas nor Herweck disclose an electronic watermark. Chapman, however, discloses "further comprising receiving receivable content including an electronic watermark indicating an access rating for the content," i.e., a controller receives and extracts a watermark to obtain content classification codes and determines to display content based on the classification code (col. 7, lines 10-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Maissel's television system that maintains a

viewer preference profile and identifies viewers to control access to programs and Thomas's technique of detecting users in a viewing area and Franzdonk's technique of controlling access to content by users and Herweck's access control technique that secures a television from use with Chapman's technique of controlling display of data by embedding content classification information in a digital watermark in order to securely communicate access control data to improve access control protection of a system.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fung et al. (U.S. Patent Application Publication No. US 2001/0052077 A1) disclose communicating access rights to the server and filtering content based on the client device attributes and preferences.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Branske whose telephone number is (571) 270-3395. The examiner can normally be reached on 8:00 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/701,066

Page 30

Art Unit: 2437

Examiner, Art Unit 2437

/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2437